

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.20624 of 2020

Kamal

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kalasapakkam Police Station,
Tiruvannamalai, Tiruvannamalai District.
(Crime No. 2237 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail, in the event of arrest in Crime No. 2237 of 2020, pending investigation on the file of the Inspector of Police, Kalasapakkam Police Station, Tiruvannamalai, Tiruvannamalai District

For Petitioner : Mr.B.Mahendra Naidu

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 430, 379 of IPC r/w 21(5) of Mines & Minerals (Development and Regulation) Act, 1957 and section 3 of PPD Act, in Crime No. 2237 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 It is the case of the prosecution that the petitioner is said to have transported one unit of sand illegally by using tractor without any valid licence. The petitioner is the owner of the Tractor Swaraji 744 FE bearing Registration No.TN 25 J 6554. Hence, the complaint.

3 The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he is the owner of the vehicle. Hence, he prays to grant anticipatory bail to the petitioner. On instruction, he would further submit that, taking into consideration the present Covid pandemic situation, the

petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and prays for grant of anticipatory bail.

4 The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is one unit. He further submitted that there is no previous case pending against the petitioner. However, he opposed to grant anticipatory bail to the petitioner.

5 In order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. IDIB000M157, without prejudice to his right and contention before the trial Court.

6 Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7 Taking note of the facts and circumstances and also considering that there is no previous antecedents against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) The petitioner is directed to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) either through RTGS/NEFT or in cash in favour of Tamil Nadu Advocate Clerk Association, High Court Madras, Indian Bank, High Court Branch, A/c.No.484026006 IFSC.No. IDIB000M157, within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to be released on bail in the event of their arrest or their appearance and on production of proof of payment of the above amount and on further condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for the like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that the petitioner shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular organization.

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and

thereafter as and when required for the interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

8 With the above directions, this Criminal Original Petition is ordered.

-sd/-
11/01/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

सत्यमेव जयते

TO

1 THE JUDICIAL MAGISTRATE,
KALASAPAKKAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUVANNAMALAI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KALASAPAKKAM POLICE STATION,
TIRUVANNAMALAI, TIRUVANNAMALAI DISTRICT.

5 THE TAMIL NADU ADVOCATE CLERK ASSOCIATION,
HIGH COURT MADRAS, HIGH COURT BRANCH,
A/C NO.484026006, IFSC CODE:IDIB000M157.

+1 CC to M/S B.MAHENDRA NAIDU Advocate on payment of
necessary charges SR NO. 496

CRL OP.20624/2020

Date :11/01/2021

MN-22/01/2021



WEB COPY